DOCUMENT RESUME

ED 355 880 HE 026 323

TITLE	Student Rights and Freedoms. Joint Statement on Rights and Freedoms of Students.
INSTITUTION	National Association of Student Personnel Administrators, Inc.
PUB DATE	Jan 93
NOTE	13p.
PUB TYPE	Reports - General (140)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	Academic Freedom; Access to Education; Citizenship; *Discipline Policy; Disclosure; *Due Process; Educational Policy; Equal Protection; Extracurricular Activities; *Freedom of Speech; Higher Education; Organizations (Groups); *School Law; School Policy; Student Records; *Student Rights; *Student School Relationship

ABSTRACT

This pamphlet provides interpretive notes on the principles of student freedom originally developed by a 1967 joint committee representing five associations concerned with higher education. As a result of interassociation meetings in 1990 and 1991 the original statement was reaffirmed and a task force developed these interpretive notes to reflect changes in law and higher education since 1967. The full text of the original statement is presented referenced with the interpretive notes. Areas covered are: (1) freedom of access to higher education; (2) freedom of discussion, inquiry, and expression within the classroom, as well as protection against improper academic evaluation and improper disclosure; (3) protection of student records; (4) the standards required for maintaining freedom in student affair activities; (5) off-campus freedom of students in exercising their rights of citizenship; and (6) the procedural standards in disciplinary proceedings. Among the notes it is stated that students should be free from exploitation and harassment; that students have the right to be informed about institutional policies, practices, and characteristics; and that students who are brought before charges of academic dishonesty or other disciplinary matters must be afforded the safeguards of orderly procedures consistent with those within the joint statement. In addition, the notes provide clarification of those student affairs activities that warrant institutional protection from discrimination or other restrictions of student rights and freedoms. The pamphlet concludes with a list of the participating associations and endorsing organizations. (GLR)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED355880

Student Rights and Freedoms

Joint Statement on Rights and Freedoms of Students

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

National Association of Student Personnel Association

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.

☑ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

National Association of Student Personnel Administrators

HE 026 323

BEST COPY AVAILABLE

STUDENT RIGHTS AND FREEDOMS

JOINT STATEMENT ON RIGHTS AND FREEDOMS OF STUDENTS

In June 1967, a joint committee, comprising representatives from the American Association of University Professors, the United States National Student Association (now the United States Student Association), the Association of American Colleges, the National Association of Student Personnel Administrators, and the National Association of Women Deans and Counselors (now the National Association for Women in Education), formulated the "Joint Statement." The joint statement was endorsed by each of its five national sponsors, as well as by a number of other professional bodies. The governing bodies of the Association of American Colleges and the American Association of University Professors, acting respectively in January and April 1990, adopted several changes in language in order to remove gender-specific references from the original text.

In September 1990 and September 1991, an interassociation task force met in Washington, D.C., to study, interpret, update, and affirm (or reaffirm) the joint statement. Members of the task force agreed that the statement has stood the test of time quite well and continues to provide an excellent set of principles for institutions of higher education. As the 25th anniversary of the joint statement approached (1992), the task force developed a set of interpretive notes to reflect changes in law and higher education that occurred after 1967. These interpretive notes are referenced within the original text. Participating associations, their representative(s) and a list of endorsing associations as of November 20, 1992, are listed at the end of this document.

PREAMBLE

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the development of students, and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. Institutional procedures for achieving these purposes may vary from campus to campus, but the minimal standards of academic freedom of students outlined below are essential to any community of scholars.

Freedom to teach and freedom to learn are inseparable facts of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community.[1] Students should exercise their freedom with responsibility.

The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the academic community. Each college and university has a duty to develop policies and procedures which provide and safeguard this freedom. Such policies and procedures should be developed at each institution within the framework of general standards and with the broadest possible participation of the members of the academic community. The purpose of this statement is to enumerate the essential provisions for student freedom to learn.

I. Freedom of Access to Higher Education

The admissions policies of each college and university are a matter of institutional choice provided that each college and university makes clear the characteristics and expectations of students which it considers relevant to success in the institution's program.[2] While church-related institutions may give admission preference to students of their own persuasion, such a preference should be clearly and publicly stated. Under no circumstances should a student be barred from admission to a particular institution on the basis of race.[3] Thus, within the limits of its facilities, each college and university should be open to all students who are qualified according to its admission standards. The facilities and services of a college or university should be open to all of its enrolled students, and

---

[1] *In order to protect the freedom of students to learn, as well as enhance their participation in the life of the academic community, students should be free from exploitation or harassment.*

[2] *In order to make appropriate choices and participate effectively in an institution's programs, students have the right to be informed about the institution, its policies, practices, and characteristics. Institutions preparing such information should take into account applicable federal and state laws.*

[3] *The reference to race must not be taken to limit the nondiscrimination obligations of institutions. In all aspects of education, students have a right to be free from discrimination on the basis of individual attributes not demonstrably related to academic success in the institution's program, including but not limited to race, color, gender, age, disability, national origin, or sexual orientation. When colleges and universities determine that achieving diversity within the student body is relevant to their academic mission,*

institutions should use their influence to secure equal access for all students to public facilities in the local community.

II. In the Classroom

The professor in the classroom and in conference should encourage free discussion, inquiry, and expression. Student performance should be evaluated solely on an academic basis, not on opinions or conduct in matters unrelated to academic standards.

A. Protection of Freedom of Expression
Students should be free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.

B. Protection Against Improper Academic Evaluation
Students should have protection through orderly procedures against prejudiced or capricious academic evaluation.[4] At the same time, they are responsible for maintaining standards of academic performance established for each course in which they are enrolled.

---

their admissions decisions may consider, among several stated criteria, individual attributes that otherwise would be prohibited (see, e.g., Regents of the University of California v. Bakke, 438 U.S. 265 [1978]).

[4] *The student grievance procedures typically used in these matters are not appropriate for addressing charges of academic dishonesty or other disciplinary matters arising in the classroom. In these instances, students should be afforded the safeguards of orderly procedures consistent with those set forth in Section VI below.*

C. Protection Against Improper Disclosure
Information about student views, beliefs, and political associations which professors acquire in the course of their work as instructors, advisers, and counselors should be considered confidential. Protection against improper disclosure is a serious professional obligation. Judgments of ability and character may be provided under appropriate circumstances, normally with the knowledge or consent of the student.

III. Student Records

Institutions should have a carefully considered policy as to the information which should be part of a student's permanent educational record and as to the conditions of its disclosure. To minimize the risk of improper disclosure, academic and disciplinary records should be separate, and the conditions of access to each should be set forth in an explicit policy statement. Transcripts of academic records should contain only information about academic status. Information from disciplinary or counseling files should not be available to unauthorized persons on campus, or to any person off campus without the express consent of the student involved except under legal compulsion or in cases where the safety of persons or property is involved. No records should be kept which reflect the political activities or beliefs of students. Provisions should also be made for periodic routine destruction of non-current disciplinary records. Administrative staff and faculty members should respect confidential information about students which they acquire in the course of their work.[5]

---

[5] *The Family Educational Rights and Privacy Act (FERPA) provides for the protection of student records. Consistent with FERPA, institutions should have a statement of policy on the content of a student's educational record as well as the conditions for its disclosure. Institutions should also have policies*

IV. Student Affairs

In student affairs, certain standards must be maintained if the freedom of students is to be preserved.[6]

A. Freedom of Association

Students bring to the campus a variety of interests previously acquired and develop many new interests as members of the academic community. They should be free to organize and join associations to promote their common interests.

■ The membership, policies, and actions of a student organization usually will be determined by vote of only those persons who hold bona fide membership in the college or university community.

■ Affiliation with an extramural organization should not of itself disqualify a student organization from institutional recognition.[7]

■ If campus advisers are required, each organization should be free to choose its own adviser, and institutional recognition should not be withheld or withdrawn solely because of the inability of a student organization to secure an adviser. Campus advisers may advise organizations in the exercise of responsibility, but they should not have the authority to control the policy of such organizations.

■ Student organizations may be required to submit a statement of purpose, criteria for membership, rules of procedures, and a current list of officers. They should not be required to submit a membership list as a condition of institutional recognition.

■ Campus organizations, including those affiliated with an extramural organization, should be open to all students without respect to race, creed, or national origin, except for religious qualifications which may be required by organizations whose aims are primarily sectarian.[8]

B. Freedom of Inquiry and Expression

■ Students and student organizations should be free to examine and discuss all questions of interest to them, and to express opinions publicly and privately. They should always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution. At the same time, it should be made clear to the academic and the larger community that in their public expressions or demonstrations students or student organizations speak only for themselves.

■ Students should be allowed to invite and to hear any person of their own choosing. Those routine procedures required by an institution before a guest

---

and security practices to control access to student records that may be available or transmitted electronically.

[6] *As in the case of classroom matters, students should have protection through orderly procedures to assure this freedom.*

[7] *"Institutional recognition" should be understood to refer to any formal relationship between the student organization and the institution.*

[8] *The obligation of institutions with respect to nondiscrimination, with the exception noted above for religious qualifications, should be understood in accordance with the expanded statement on nondiscrimination in interpretive note #3 above. Exceptions may also be based on gender as authorized by law.*

speaker is invited to appear on campus should be designed only to ensure that there is orderly scheduling of facilities and adequate preparation for the event, and that the occasion is conducted in a manner appropriate to an academic community. The institutional control of campus facilities should not be used as a device of censorship. It should be made clear to the academic and larger community that sponsorship of guest speakers does not necessarily imply approval or endorsement of the views expressed, either by the sponsoring group or by the institution.[9]

C. Student Participation in Institutional Government

As constituents of the academic community, students should be free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. The student body should have clearly defined means to participate in the formulation and application of institutional policy affecting academic and student affairs.[10] The role of student government and both its general and specific responsibilities should be made explicit, and the actions of student government within the areas of its jurisdiction should be reviewed only through orderly and prescribed procedures.

D. Student Publications

Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of formulating student opinion on various issues on the campus and in the world at large.

Whenever possible, the student newspaper should be an independent corporation financially and legally separate from the college or university. Where financial and legal autonomy is not possible, the institution, as the publisher of student publications, may have to bear the legal responsibility for the contents of the publications. In the delegation of editorial responsibility to students, the institution must provide sufficient editorial freedom and financial autonomy for the student publications to maintain their integrity of purpose as vehicles for free inquiry and free expression in an academic community.

Institutional authorities, in consultation with students and faculty, have a responsibility to provide written clarification of the role of the student publications, the standards to be used in their evaluation, and the limitations on external control of their operation. At the same time, the editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsible journalism, such as the avoidance of libel, indecency, undocumented allegations, attacks on personal integrity, and the techniques of harassment and innuendo. As safeguards for the editorial freedom of student publications, the following provisions are necessary.

- The student press should be free of censorship and advance approval of copy, and its editors and managers should be free to develop their own editorial policies and news coverage.

- Editors and managers of student publications should be protected from arbitrary suspension and removal

---

[9] *The events referred to in this section should be understood to include the full range of student-sponsored activities such as films, exhibitions, and performances.*

[10] *"Academic and student affairs" should be interpreted broadly to include all administrative and policy matters pertinent to students' educational experiences.*

because of student, faculty, administrative, or public disapproval of editorial policy or content. Only for proper and stated causes should editors and managers be subject to removal and then by orderly and prescribed procedures. The agency responsible for the appointment of editors and managers should be the agency responsible for their removal.

■ All institutionally published and financed student publications should explicitly state on the editorial page that the opinions there expressed are not necessarily those of the college, university, or student body.

V. Off-Campus Freedom of Students

A. Exercise of Rights of Citizenship

College and university students are both citizens and members of the academic community. As citizens, students should enjoy the same freedom of speech, peaceful assembly, and right of petition that other citizens enjoy and, as members of the academic community, they are subject to the obligations which accrue to them by virtue of this membership. Faculty members and administrative officials should ensure that institutional powers are not employed to inhibit such intellectual and personal development of students as is often promoted by their exercise of the rights of citizenship both on and off campus.

B. Institutional Authority and Civil Penalties

Activities of students may, upon occasion, result in violation of law. In such cases, institutional officials should be prepared to apprise students of legal counsel and may offer other assistance. Students who violate the law may incur penalties prescribed by civil authorities, but institutional authority should never be used merely to duplicate the function of general laws. Only where the institution's interests as an academic community are distinct and clearly involved should the special authority of the institution be asserted. Students who incidentally violate institutional regulations in the course of their off-campus activity, such as those relating to class attendance, should be, subject to no greater penalty than would normally be imposed. Institutional action should be independent of community pressure.

VI. Procedural Standards in Disciplinary Proceedings

In developing responsible student conduct, disciplinary proceedings play a role substantially secondary to, for example, counseling, guidance, and admonition.[11] At the same time, educational institutions have a duty and the corollary disciplinary powers to protect their educational purpose through the setting of standards of scholarship and conduct for the students who attend them and through the regulation of the use of institutional facilities. In the exceptional circumstances when the preferred means fail to resolve problems of student conduct, proper procedural safeguards should be observed to protect the student from the unfair imposition of serious penalties.

The administration of discipline should guarantee procedural fairness to an accused student.[12] Practices in disciplinary cases may vary in formality with the gravity of the offense and the sanctions which may be applied. They should also take into account

---

[11] *The student conduct that may be subject to disciplinary proceedings described in this section should be understood to include alleged violations of standards of student academic integrity.*

[12] *In addition, student organizations as well as individual students may be subject to institutional*

the presence or absence of an honor code, and the degree to which the institutional officials have direct acquaintance with student life in general and with the involved student and the circumstances of the case in particular. The jurisdictions of faculty or student judicial bodies, the disciplinary responsibilities of institutional officials, and the regular disciplinary procedures, including the student's right to appeal a decision, should be clearly formulated and communicated in advance.[13] Minor penalties may be assessed informally under prescribed procedures.

In all situations, procedural fair play requires that a student charged with misconduct be informed of the nature of the charges and be given a fair opportunity to refute them, that the institution not be arbitrary in its actions, and that there be provision for appeal of a decision. The following are recommended as proper safeguards in such proceedings when there are no honor codes offering comparable guarantees.

A. Standards of Conduct Expected of Students

The institution has an obligation to clarify those standards of behavior which it considers essential to its educational mission and its community life. These general behavioral expectations and the resultant specific regulations should represent a reasonable regulation of student conduct, but students should be as free as possible from imposed limitations that have no direct relevance to their education. Offenses should be as clearly defined as possible and interpreted in a manner consistent with the aforementioned principles of relevancy and reasonableness.[14] Disciplinary proceedings should be instituted only for violations of standards of conduct formulated with significant student participation and published in advance through such means as a student handbook or a generally available body of institutional regulations.

B. Investigation of Student Conduct

■ Except under extreme emergency circumstances, premises occupied by students and the personal possessions of students should not be searched unless appropriate authorization has been obtained. For premises such as residence halls controlled by the institution, an appropriate and responsible authority should be designated to whom application should be made before a search is conducted. The application should specify the reasons for the search and the objects or information sought. The student should be present, if possible, during the search. For premises not controlled by the institution, the ordinary requirements for lawful search should be followed.

■ Students detected or arrested in the course of serious violations of institutional regulations, or infractions of ordinary law, should be informed of their rights.[15] No form of harassment should be used by institutional representatives to coerce admissions of guilt or

---

disciplinary sanctions, and in those circumstances, student organizations should also be guaranteed procedural fairness.

13 Like other practices in disciplinary cases, the formality of any appellate procedures should be commensurate with the gravity of the offense and the sanctions that may be imposed.

14 The institution should state as specifically as possible the sanctions that may be imposed through disciplinary proceedings.

15 This provision is intended to protect students' rights under both institutional codes and applicable law. Where institutional regulations are violated, students should be informed of their rights under campus disciplinary procedures. Where arrests are made for infractions of the law, students must be informed of

information about conduct of other suspected persons.

C. Status of Student Pending Final Action

Pending action on the charges, the status of a student should not be altered, or the student's right to be present on the campus and to attend classes suspended, except for reasons relating to the student's physical or emotional safety and well-being, or for reasons relating to the safety and well-being of other persons or property.[16]

D. Hearing Committee Procedures

When the misconduct may result in serious penalties, and if a penalized student questions the fairness of disciplinary action, that student should be granted, on request, the privilege of a hearing before a regularly constituted hearing committee. The following suggested hearing committee procedures satisfy the requirements of procedural due process in situations requiring a high degree of formality.

■ The hearing committee should include faculty members or students, or, if regularly included or requested by the accused, both faculty and student members. No member of the hearing committee who is otherwise interested in the particular case should sit in judgment during the proceeding.

■ The student should be informed, in writing, of the reasons for the proposed disciplinary action with sufficient particularity, and in sufficient time, to ensure opportunity to prepare for the hearing.[17]

■ The student appearing before the hearing committee should have the right to be assisted in his or her defense by an adviser of the student's choice.

■ The burden of proof should rest upon the officials bringing the charge.

■ The student should be given an opportunity to testify, to present evidence and witnesses, and to hear and question adverse witnesses. In no case should the committee consider statements against the student unless he or she has been advised of their content and of the names of those who made them, and has been given an opportunity to rebut unfavorable inferences which might otherwise be drawn.

■ All matters upon which the decision may be based must be introduced into evidence at the proceeding before the hearing committee. The decision should be based solely upon such matters. Improperly acquired evidence should not be admitted.

■ In the absence of a transcript, there should be both a digest and a verbatim record, such as a tape recording, of the hearing.

■ The decision of the hearing committee should be final, subject only to the student's right of appeal to the

---

their rights by arresting authorities.

[16] *The original text stated, "relating to the safety and well-being of students, faculty, or university property."*

[17] *The student should also be informed of the specific sanctions which may be imposed through the disciplinary proceeding.*

president or ultimately to the governing board of the institution.[18]

---

[18] *As a matter of responsible practice, the decision of the committee, as well as grounds and procedures for appeal, should be communicated to the student in writing within a reasonable period of time.*

The 1967 Joint Drafting Committee members and the associations they represented are listed below:

Phillip Monypenny (chairman), American Association of University Professors (AAUP)
Peter Armacost, Association of American Colleges (AAC)
Ann Bromley, National Association of Women Deans and Counselors (now NAWE)
Earle Clifford, National Association of Student Personnel Administrators (NASPA)
Harry Gideonse, Association of American Colleges (AAC)
Edward Schwartz, United States National Student Association (now USSA)
Robert VanWaes, American Association of University Professors (AAUP)

The 1990-92 Interassociation Task Force members and the associations they represented are listed below:

Richard Mullendore (chairman), American College Personnel Association (ACPA) and National Orientation Directors Association (NODA)
Lou Albert, American Association for Higher Education (AAHE)
Ken Atwater, American Association of Community Colleges (AACC)
Pierre R. Barolette, United States Student Association (USSA)
Ernst Benjamin, American Association of University Professors (AAUP)
Paula Brownlee, Association of American Colleges (AAC)
William Bryan, American Association of University Administrators (AAUA)
Judy Corcillo, American Association for Higher Education (AAHE)
Renee DeVigne, Jesuit Association of Student Personnel Administrators (JASPA)
Donald D. Gehring, Association for Student Judicial Affairs (ASJA)
Gail Short Hanson, National Association for Women in Education (NAWE)
Jonathan Knight, American Association of University Professors (AAUP)
Mark Laponsky, American Association of University Professors (AAUP)
Roger Ludeman, American College Personnel Association (ACPA)
Mary Beth Maxwell, United States Student Association (USSA)
Thomas Miller, National Association of Student Personnel Administrators (NASPA)
Connie Odems, American Association of Community and Colleges (AACC)
Gina Pearson, National Association of Graduate and Professional Students (NAGPS)
Stacey Shears, United States Student Association (USSA)
Halle VanderGaag, United States Student Association (USSA)
Joy Ward, National Association of Graduate and Professional Students (NAGPS)
Steven Zimmer, United States Student Association

As of November 20, 1992, the following associations have endorsed the joint statement with the interpretive comments:

American Association of University Administrators (AAUA)
American Association of Community Colleges (AACC)
American College Personnel Association (ACPA)
Association for Student Judicial Affairs (ASJA)
National Association of Student Personnel Administrators (NASPA)
National Association for Women in Education (NAWE)
National Orientation Directors Association (NODA)
Southern Association for College Student Affairs (SACSA)
United States Student Association (USSA)

National Association of
Student Personnel Administrators
1875 Connecticut Avenue, NW
Suite 418
Washington, DC 20009-5728
(202) 265-7500